

AMENDED IN SENATE JULY 21, 2003

AMENDED IN SENATE JULY 9, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MARCH 11, 2003

AMENDED IN ASSEMBLY FEBRUARY 27, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 198

Introduced by Assembly Member Nation

January 27, 2003

An act to add Section 30807.5 to the Streets and Highways Code, relating to streets and highways.

LEGISLATIVE COUNSEL'S DIGEST

AB 198, as amended, Nation. Toll bridges and highways: disclosure of personal information.

Existing law authorizes the Department of Transportation to fix the rate of tolls on any toll bridge or toll road and to prescribe any rule and regulation with respect to any toll bridge or toll road within the state.

This bill would prohibit a transportation agency, as defined, from selling or providing personally identifiable information of a subscriber, subject to specified exceptions. The bill would allow a transportation agency to store certain personally identifiable information of a subscriber and would require it to discard other information within a designated time period. *The bill would authorize a subscriber whose personally identifiable information has been sold or provided in*

violation of the bill to bring specified actions for recovery of damages, costs, and attorney's fees.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 30807.5 is added to the Streets and
2 Highways Code, to read:
3 30807.5. (a) (1) Except as otherwise provided in this
4 section, a transportation agency may not sell or otherwise provide
5 personally identifiable information including, but not limited to,
6 travel pattern data, address, telephone number, bank account
7 information, or credit card number of any person who subscribes
8 to an electronic toll fare or fare collection system.
9 (2) A transportation agency may only make personally
10 identifiable information available to a law enforcement agency
11 pursuant to a search warrant. Absent a provision in the search
12 warrant to the contrary, the law enforcement agency shall
13 immediately notify the subscriber that his or her records have been
14 obtained and shall provide the subscriber with a copy of the search
15 warrant and the identity of the law enforcement agency or peace
16 officer to whom the records were provided.
17 (b) A transportation agency may, within practical business and
18 cost constraints, store only personally identifiable information of
19 a subscriber such as the account name, credit card number, billing
20 address, ~~vehicle information~~, *information*, and other basic
21 account information required to perform account functions such
22 as billing, account settlement, or enforcement activities. All other
23 information shall be discarded six months after the closure date of
24 the billing cycle or 60 days after the bill has been paid, whichever
25 occurs last.
26 (c) A transportation agency shall take every effort, within
27 practical business and cost constraints, to purge the personal
28 account information of an account within 60 days after the date the
29 account is closed or terminated. In no case shall a transportation
30 agency maintain personal information more than 150 days after
31 the date an account is closed or terminated.
32 (d) (1) This section does not prohibit a peace officer, as
33 defined in Section 830.1 or Section 830.2 of the Penal Code, when



conducting a criminal or traffic collision investigation, from obtaining the personally identifiable information of persons who subscribe to an electronic toll fare or fare collection system, if the officer has good cause to believe that a delay in obtaining this information in seeking a search warrant would result in an imminent danger to the health or safety of a member of the public. The peace officer shall provide the transportation agency with a written statement setting forth the basis for his or her good cause belief.

(2) When obtaining the personally identifiable information of persons who subscribe to an electronic toll fare or fare collection system the peace officer shall, within a reasonable, time but not later than 30 days, notify the subscriber that his or her records have been obtained, identify the law enforcement agency or peace officer to whom the records have been provided, and provide the subscriber with a copy of the written statement provided to the transportation agency under paragraph (1) that sets forth the basis for his or her good cause belief. If the notification to the subscriber would interfere with an ongoing investigation, the peace officer or law enforcement agency may request a court order for a 30-day extension of the notice requirement.

(e) This section does not prohibit a transportation agency in subdivision (a) from providing aggregated traveler information derived from collective data that relates to a group or category of subscribers from which personally identifiable information has been removed.

(f) For purposes of this section, “transportation agency” means the Department of Transportation, a regional transportation planning agency, the Bay Area Toll Authority, a countywide transportation planning agency, a transit district, any entity operating a toll bridge, toll lane, or toll highway within the state, any eligible claimant under the Transportation Development Act (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code), or any entity under contract with any of the above agencies, entities, or districts.

(g) For purposes of this section, “electronic toll fare or fare collection system” is a system where a transponder or other electronic medium is used to deduct payment of a toll or fare from a subscriber’s account.

(h) This section does not prohibit a transportation agency from sharing data with another transportation agency solely to comply with interoperability specifications and standards adopted pursuant to Section 27565 regarding electronic toll collection devices and technologies. A third party vendor may not use personally identifiable information obtained under this subdivision for a purpose other than described in this subdivision.

(i) Subdivision (b) or (c) shall not prohibit a transportation agency, or its designee, from performing financial and accounting functions such as billing, account settlement, enforcement, or other financial activities required to operate and manage the toll facilities.

(j) This section does not prohibit a transportation agency from communicating exclusively about its transportation-related products and services on behalf of itself or the agency with which it contracts to subscribers of the transportation agency through a contracted third-party vendor using personally identifiable information limited to the subscriber's name, address, and electronic mail address. Each communication shall contain a clear and conspicuous notice and instructions to the subscriber regarding the process for terminating any future communication about a transportation-related product or service.

(k) *In addition to any other remedies provided by law, a subscriber has the following remedies:*

(1) *A subscriber whose personally identifiable information has been knowingly sold or otherwise provided in violation of this section may bring an action to recover either actual damages or two thousand five hundred dollars (\$2,500) for each individual violation, whichever is greater, and may also recover reasonable costs and attorney's fees.*

(2) *A subscriber whose personally identifiable information has been sold or otherwise provided three or more times in violation of this section may bring an action to recover either actual damages or two thousand five hundred dollars (\$2,500) for each individual violation, whichever is greater, and may also recover reasonable costs and attorney's fees.*